

**UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA**

-----X
JEFF SCHMIDT,

Plaintiff,

-against-

AMERICAN INSTITUTE OF PHYSICS,

Defendant.
-----X

Civil Action No.: 1:03-cv-1691
(RMU)

JOINT REPORT OF PARTIES PURSUANT TO LOCAL RULE 16.3

Plaintiff Jeff Schmidt and Defendant American Institute of Physics ("AIP") held their Local Rule 16.3 conference on October 28, 2003 at the office of Defendant's counsel. In attendance were Plaintiff Jeff Schmidt, Plaintiff's counsel Ross Guberman,¹ and Defendant's attorneys Wendy Mellk and Teresa Burke Wright of Jackson Lewis LLP. The parties submit this Joint Report to the Court pursuant to Local Rule 16.3(d).

1. Whether the case is likely to be disposed of by dispositive motion; and whether, if a dispositive motion has already been filed, the parties should recommend to the Court that discovery or other matters should await a decision on the motion.

Defendant and Plaintiff disagree about whether a dispositive motion has already been filed. AIP has made a motion to transfer venue to the United States District Court for the District of Maryland. AIP believes discovery should be stayed pending a decision on this

¹ Defendant's attorneys agreed to meet with Mr. Guberman in reliance on his representation that he had filed a notice of appearance on Plaintiff's behalf. Mr. Guberman provided a copy of this notice at the conference. On the face of the notice, Mr. Guberman wrote, "Copy mailed to DC District Court via U.S. Mail 10/28/03." The morning after the conference, Defendant's attorneys received a communication from Mr. Guberman indicating that his membership to this Court's bar had lapsed and accordingly, he would be required to withdraw from the case. Mr. Guberman's motion to withdraw was served on November 3, 2003. The motion indicates that Mr. Schmidt is again representing himself pro se.

motion. Plaintiff has filed an Opposition to Defendant's motion to transfer venue and does not believe that discovery should be delayed pending a decision on the motion.

2. *The date by which any other parties shall be joined or the pleadings amended, and whether some or all the factual and legal issues can be agreed upon or narrowed.*

AIP proposes November 15, 2003 as the date by which any other parties shall be joined and the pleadings amended. Plaintiff proposes that there be no deadline yet for joinder of parties and amendment of pleadings.

3. *Whether the case should be assigned to a magistrate judge for all purposes, including trial.*

The parties do not consent to assignment of this case to a magistrate judge for all purposes at this time.

4. *Whether there is a realistic possibility of settling the case.*

AIP does not believe there is a realistic possibility of settling the case at this time. Plaintiff disagrees.

5. *Whether the case could benefit from the Court's alternative dispute resolution (ADR) procedures (or some other form of ADR); what related steps should be taken to facilitate such ADR; and whether counsel have discussed ADR and their response to this provision with their clients.*

The parties believe that this case could benefit from mediation or some other form of ADR after the close of discovery. AIP's counsel has discussed this response with their clients. Plaintiff is willing to mediate this case at any time.

6. *Whether the case can be resolved by summary judgment or motion to dismiss; dates for filing dispositive motions and/or cross-motions, oppositions, and replies; and proposed dates for a decision on the motions.*

AIP anticipates filing a motion for summary judgment at or before the close of discovery. The parties propose that the deadline for filing a motion for summary judgment be one month after the close of discovery, with briefing to follow according to the Local Rule 7.

7. *Whether the parties should stipulate to dispense with the initial disclosures required by Rule 26(a)(1), F.R.Civ.P., and if not, what if any changes should be made in the scope, form or timing of those disclosures.*

The parties have agreed to waive initial disclosures.

8. *The anticipated extent of discovery, how long discovery should take, what limits should be placed on discovery; whether a protective order is appropriate; and a date for the completion of all discovery, including answers to interrogatories, document production, requests for admissions, and depositions.*

The parties propose June 15, 2004 as the date for completion of all discovery, including answers to interrogatories, document production, requests for admissions and depositions. At this time, the parties do not believe any limits should be placed on discovery other than those already provided by the Federal Rules of Civil Procedure and the Local Rules of this Court.

9. *Whether the requirement of exchange of expert witness reports and information pursuant to Rule 26(a)(2), F.R.Civ.P., should be modified, and whether and when depositions of experts should occur.*

The parties propose that Plaintiff identify expert witnesses on or before February 16, 2004 and Defendant identify experts on or before March 31, 2004. Depositions of experts should occur within the discovery period. The parties do not propose any other modification to

the requirement of exchange of expert witness reports and information stated in Fed. R. Civ. P. 26(a)(2).

10. In class actions, appropriate procedures for dealing with Rule 23 proceedings, including the need for discovery and the timing thereof, dates for filing a Rule 23 motion, and opposition and reply, and for oral argument and/or an evidentiary hearing on the motion and a proposed date for decision.

Not applicable.

11. Whether the trial and/or discovery should be bifurcated or managed in phases, and a specific proposal for such bifurcation.

The parties do not believe at this time that bifurcation or other management of trial in phases is necessary.

12. The date for the pretrial conference (understanding that a trial will take place 30 to 60 days thereafter).

The parties propose that the pretrial conference occur on or about August 16, 2004.

13. Whether the Court should set a firm trial date at the first scheduling conference or should provide that a trial date will be set at the pretrial conference from 30 to 60 days after that conference.

The parties propose that the Court set a trial date at the pretrial conference.

14. *Such other matters that the parties believe may be appropriate for inclusion in a scheduling order.*

The parties do not have any additional matters appropriate for inclusion in a scheduling order at this time.

Dated: November 18, 2003

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